

# CITY OF DENTON CITY COUNCIL MINUTES

June 17, 2014

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, June 17, 2014 at 2:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Mayor Watts; Mayor Pro Tem Engelbrecht, Council Member Gregory, Council Member Hawkins, Council Member Roden, and Council Member Ryan

ABSENT: Council Member Johnson

## 1. Citizen Comments on Consent Agenda Items

There were no comments from citizens.

## 2. Requests for clarification of agenda items listed on the agenda for June 17, 2014.

Council Member Ryan questioned the financials for Consent Agenda Item N. He felt the numbers did not add up correctly with no signed agreement from UNT.

Frank Payne, City Engineer, stated that typically when working with another agency and in the interest of time to get this project started before the fall semester, the funding was finalized after approval of the project by the involved entities. Staff was working with UNT to obtain a letter of agreement.

Mayor Pro Tem Engelbrecht asked if this project would alleviate the sewer problems at the Wesley Center due to the line being too small.

Payne replied that was not included in this project.

Council Member Hawkins asked about Consent Agenda Item G and the number of allowed change orders to a project.

Chuck Springer, Director of Finance, stated that State law allowed a 25% change in the total agreement without rebidding. Any change order over \$50,000 had to come to Council.

Council Member Johnson arrived at the meeting.

Council Member Roden questioned how parking would be enforced at night in conjunction with Consent Agenda Item J.

Lee Howell, Police Chief, stated that after hours the parking enforcement went to the normal patrol officers on duty at the time.

Council Member Roden suggested that initially this area should be targeted to keep the enforcement of the parking restriction.

Mayor Pro Tem Engelbrecht stated that he was considering pulling Consent Agenda Item E for separate consideration but wanted to know consensus of Council.

Council was in agreement to pull Consent Agenda Item E for separate consideration.

## 3. Work Session Reports

- A. ID 14-0184 Receive a report, hold a discussion, and provide direction on proposed revisions to the City of Denton Strategic Plan.

Bryan Langley, Assistant City Manager, presented the update on the strategic plan. He reviewed the 2013-14 Key Focus Areas of (1) organizational excellence, (2) public infrastructure, (3) sustainable economic development and environmental stewardship, (4) safe, livable, and family friendly community and (5) partnerships and regional leadership.

Strategic Plan Issues/Current Needs – the Strategic Plan was originally created in April 2011 and needed to be updated to reflect accomplishments and new priorities. A Comprehensive Plan discussion and input needed to be incorporated into the revised strategic plan. KFA3 was overly broad and lacked specificity. A separate KFA was proposed for economic development to increase focus on this activity.

A separate KFA was also proposed for Sustainability. This KFA would incorporate elements from the Council approved sustainability plan. A separate goal in KFA 4 was proposed for Library, Parks and Leisure Services. KFA 5 would be eliminated and incorporated into other goals. This was because this KFA was closely related to other KFAs in the Strategic Plan plus performance measures were difficult to identify and track.

Proposed Strategic Plan revisions by KFA and goal – In KFA 1 (Organizational Excellence) a goal to collaborate with local, regional, state, and federal partners would be added. KFA 2 would not have any changes to the goals. It was recommended to remove the current KFA 3 from the plan. A new KFA 3 for Economic Development would be added with goals to (1) develop targeted policies and incentives to achieve desired economic growth, (2) make Denton a Destination for Visitors, (3) promote a business-friendly environment and (4) encourage development redevelopment, recruitment and retention.

Council Member Roden asked how fluid was the document and how would it change as it moved forward.

Langley stated that Council could amend the document at any time it desired. This was a general start for the goal.

Council Member Gregory stated that he was trying to look into a more detailed objective and where to address the revisions to the Denton Development Code with redevelopment and a discussion about form based code. He questioned if that was too detailed to make the list.

Langley stated that Goal 3.3 was to maintain a timely and efficient development review process. That wording could be more specific if Council wanted.

Council Member Gregory felt that the discussion about form based code would be lengthy. A discussion was also needed regarding development time frames and the fact that small developments or remodeling might take as long to get through the development process as a large Greenfield development. He felt there might be a need for an "express" development process for smaller developments.

Langley stated that at the January Council retreat there were discussions about elements for development and specificity for smaller developments. Form based code could be added to the area for specific outcomes.

Council Member Ryan questioned why the wording for “protected structures” was removed.

Langley stated that comments through the Comprehensive Plan processes captured in some way how to retain historical features. It was a broader statement.

Council Member Ryan requested that the old language be put back in regarding structures and culture.

Langley stated the language would be restored. He continued with the key objectives for KFA 3 – Economic Development.

Council Member Johnson asked about the multi-family ratio to single family offerings and whether there was a limit on the amount of multi-family or if it was based on multi-family demand.

Lockley stated that the goal was where to have rented vs owner-occupied homes and the incentives to achieve the goal.

Council Member Johnson stated if that was the case, then there was a need in part of the process to make sure there were no unintended consequences. An example would be if there was a change in the requirement for street thickness and what kind of impact that would be on a single-family developer. Such a consequence might increase the cost of the home and cause a developer not to build in Denton. He also expressed a challenge with the Strategic Plan to celebrate small victories and not to wait until a large plan was done.

Lockley stated that this was meant to be a high level plan for the organization. Each department was also working on their own individual strategic plan that tied back into the larger plan. That would be a way to get to those small victories.

Council Member Roden stated that this was also something that citizens could know about for a yearly process. He felt there was some tension in terms of growth and preferred growth concept. He also felt the market was changing in terms of homeownership and how that extended throughout the city.

Council discussed the concept of ratio of rental/homeownership and how that ratio was determined. This concept could be a topic for a future Council planning session. Staff was working on a history of trends for the past ten years and what other university-type communities had. It was noted to separate out student housing/multi-bedroom complexes which were different from standard apartments.

Langley continued with KFA 4 changes which would add a goal to provide outstanding leisure, cultural and educational opportunities.

Council Member Roden stated that he did not see a mention of programs such as the Neighborhood Empowerment Grant and the Better Block program in any of the objectives. Not so much in terms of what the City would provide but what the neighborhoods would do. He felt that language was important. Goal 4.4 reflected the wording "provide" which might not be appropriate and suggested "provide and support" which would reflect what was happening with some of the neighborhood programs.

Council Member Gregory felt that Goal 4.4 was geared towards libraries and parks but 4.4.3 did not go far enough in promoting healthy lifestyles through healthy living which went back to other areas for walking and biking. In a future retreat Council might think about the broader notion on how to promote healthy living with parks a major player but not the only one.

Langley stated that the current KFA 5 would be eliminated and a new KFA 5 would be developed for sustainability and environmental stewardship. He reviewed the goals under that focus area.

Key Outcomes and Tasks for 2015 would include (1) develop a financial plan to maintain reserves in accordance with policy requirements over the five year financial forecast, (2) utilize the Leadership Excellence and Enhancement Program, Innovation Program and Lean Government initiatives to improve the cost effectiveness, efficiency and productivity for city operations, (3) develop a financial plan to achieve a desired level of funding for street maintenance activities within specific timelines, (4) begin construction of projects identified by the Citizens Bond Advisory Committee and approved by the voters, (5) construct required electric system infrastructure to meet future growth and developments for DME, (6) continue implementation of a bicycle mobility plan, (7) begin implementation of the Preferred Growth Concept for comprehensive plan, (8) continue construction of a convention center in cooperation with UNT and O'Reilly Hospitality Management, (9) develop specific economic development strategies and incentives to achieve goals articulated in the strategic plan, (10) complete reconstruction of Fire Stations 2 and begin work to reconstruct Stations 3 and 4, (11) complete rehabilitation of Lake Lewisville water treatment plant, (12) begin the process of developing a municipal setting designation for the downtown area and (13) identify and prioritize Green House gas emission reduction strategies

Council Member Roden stated that looking at where other cities were going; he saw social endeavors such as pre-K, etc. He knew that Denton had some social programs but none of those programs were addressed in the Strategic Plan. He suggested adding those to the plan for future years.

Langley stated that the next steps in the process were to refine performance measures to better reflect the key outcomes desired. In July a draft of the revised Strategic Plan would be presented to Council as part of the budget process. In September Council would consider the adoption of a new Strategic Plan for 2014-15.

Council Member Gregory stated that it was important to see that developing a budget worked with goals set in a Strategic Plan. He felt it guided staff so when there was a question staff did not know how to address there was a goal and would know how to proceed.

Council Member Johnson stated that the Strategic Plan was a cultural statement. It was what the City was about and the goals underneath the point to the goals and behaviors at the staff level. The trick was to communicate that to citizens so that when behaviors don't match, there was a plan to fix it. The challenge was to take the overriding plan and take it down to the staff level to show what behaviors/ actions would be.

Council Member Roden felt that at times there was not enough thought organizationally with the look of current boards and commissions in terms of options on how to get where they wanted to go, changes that needed to be made in the future and properly bringing on board with the missions on where they were heading.

- B. ID 14-0225 Receive a report, hold a discussion and give staff direction regarding the design and construction of a west side runway at Denton Enterprise Airport. [ID 14-0222]

Quentin Hix, Director of Aviation, reviewed the details concerning the west side runway grant. The mix of aircraft from small, propeller training models to much faster corporate jets made a second runway an important safety issue regarding flight paths and operating speed on a single runway. TxDOT Aviation offered the City a grant to fund design and construction of a second runway. The grant offer was \$6,980,000 with a cost sharing basis of 85% (\$5,954,250) from TxDOT Aviation and 15% (\$1,025,750) local funding. Once the design phase was completed, the construction phase would recommend a 5000 long, 100 foot wide runway to accommodate large aircraft.

Mayor Watts asked if the money towards the City's portion would be bonds to reimburse the airport fund for the cash expended or reduce the amount of Certificates of Obligation needed.

Hix stated that the \$425,000 for the engineering study was currently covered with approved line items in this year's budget which would be funding from the Airport Fund. Whatever was spent prior to receiving the grant would reduce the amount of Certificate of Obligation funding needed in the future.

Mayor Watts stated that one goal over the years was to have more cash funding and wondered if it would be more beneficial to have that kind of approach rather than debt funding.

Chuck Springer, Director of Finance, stated that Certificates of Obligation and the issuance of debt had restrictions as a private activity so while the runway was open to the public if a facility was built for a specific business, it could not be done unless approved by voters. Cash could be used for those activities that might not be able to be used with other activities.

- C. ID 14-0245 Receive a report, hold a discussion, and give staff direction regarding the preliminary FY 2014-15 Proposed Budget, Capital Improvement Program, and Five Year Financial Forecast.

Chuck Springer, Director of Finance, presented the budget discussion. Budgetary themes this year were to continue on course to balance General Fund revenue and expenses; maintain a competitive compensation plan; consider limited funding to address General Fund growth needs; continue street maintenance expansion, utility infrastructure replacement and expansion; manage

TMPA debt requirements in electric utility. He presented the assumptions for General Fund projections and the compensation and benefits assumptions.

Council Member Gregory stated that he would like to see what the document looked like five years ago in terms of projections.

Council discussed the assumed projections for the assessed value increases which were projected to be 8% in 2014-15 and 4% in 2015-16 and beyond and which figures to use when budgeting.

Council Member Roden commented that the last couple of year's growth in sales tax had not been super encouraging in terms of growth especially when looking at new development coming on line. He questioned why there was not a larger increase in sales tax growth.

Springer felt it was bounce back from the recession a couple of years ago. Sales tax was historically driven by population and the amount of spendable money for that population. He continued with the budget development for the General Fund which looked at Council priorities and requests. The General Fund departments had requested supplemental packages totaling approximately \$5.4 million with baseline adjustment requests totaling \$378,000. There was limited capacity for additional funding and departments were asked to submit potential reduction/revenue enhancements of 5% over a three year time. Efficiency/Service efforts and budget transparency were reviewed as well as projections for the Street Improvement Fund.

Council Member Roden felt there was a need to get to a point where the bar was raised to work on fixing the street improvement problem.

Mayor Watts stated that as he looked back historically there were similar street reports that were not much better than now. Progress had been made from the past and he was encouraged with the numbers.

Springer stated that additional Street Maintenance funding was underway with all growth in franchise fee revenues being dedicated to street maintenance funding. Proposed increases in General Obligation bond funding and adoption of street impact fees were suggested. Additional alternatives included dedicated street maintenance fees, dedicated property tax increase or additional funding from the General Fund through reduction of current programs.

Council Member Roden asked about the progress of street impact fees.

Jim Coulter, General Manager-Water Administration, stated that staff was continuing to look at the fee with a lot of detail included in the project. It would be brought back to Council in the future but staff was not quite ready.

Council Member Gregory felt that there was a need to be cautious with a street impact fee for new improvement being built in terms of what other cities were doing. Impact fees were another cost and if that cost could not be recouped in the rent, the development might go to another city.

Springer reviewed the Electric Utility, Water Utility, Wastewater Utility, and Solid Waste and Recycling funds in terms of budget focus, associated projects and proposed rate increases. He also presented the Debt Service Fund and General CIP fund projections.

Council Member Gregory requested an Informal Staff Report on how the City was dealing with zebra mussels. At the next budget discussion he would also like a report on the total picture increases in each utility fund to see the total picture on how it would affect the average homeowner's utility bill.

Springer stated that the next step in the budget process would be a half day budget workshop on July 31<sup>st</sup>. The budget would be formally adopted on September 6<sup>th</sup>.

Council Member Johnson stated that a challenge was how to get businesses open faster which would help with the bottom line to get more revenue faster.

- D. ID 14-0259 Receive a report, hold a discussion, and give staff direction regarding the creation of a Tax Increment Reinvestment Zone for the construction of a Hotel and Convention Center on approximately thirteen acres of land located along Interstate 35 on University of North Texas property. [ID 14-0209]

City Manager Campbell stated that this item was on the Work Session if Council had any questions. There was a public hearing scheduled on the item at the regular session.

Mayor Watts stated that there was statutory language for the creation of a TIRZ. This proposed TIRZ was on University land and commercial development could not be developed immediately adjacent to it. He questioned how it fit into a TIRZ.

David Pettit, Economic Development Consultant, reviewed the criteria to establish TIRZ which the Council needed to determine. Currently there was no tax revenue from the land as the University owned the land. The assumption was that the land would not be developed without the creation of the TIRZ. He reviewed Attorney General Opinions regarding the creation of a TIRZ. The determination on whether the area was unproductive, underdeveloped, or blighted was a question of fact which the governing body would have to determine.

Council Member Roden questioned where a challenge to the ability to create TIRZ would come from.

Pettit stated it would be from a taxpayer group.

Following the completion of the Work Session, the City Council convened in a Closed Meeting at 4:35 p.m. to consider the specific items listed below under the Closed Meeting section of this agenda.

1. Closed Meeting:

- A. ID 14-0193 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the R.B. Longbottom Survey, Abstract Number 775, City of Denton, Denton County, Texas, and generally located northwest corner of State

Highway Loop 288 and Audra Lane. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition of the real property described above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project: Parcel P26 - Geesling Gassaway County, Inc.) [ID 14-0195]

- B. ID 14-0196 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the Caswell Carter Survey, Abstract Number 275, and in the Daniel P. Culp Survey, Abstract No. 287, City of Denton, Denton County, Texas, and generally located on the west line of North Loop 288, north of US Highway 380 (University Drive). Consultation with the City's attorneys regarding legal issues associated with the potential acquisition of the real property described above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project: Parcel P33 - Edward F. Wolski) [ID 14-0197]
- C. ID 14-0198 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the Daniel P. Culp Survey, Abstract No. 287, City of Denton, Denton County, Texas, and generally located generally on the west line of North Loop 288, south of Kings Row. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition of the real property described above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project Parcel P35 - Kim Property Revocable Living Trust) [ID 14-0199]
- D. ID 14-0203 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the S. McCracken Survey, Abstract Number 817, City of Denton,

Denton County, Texas, and generally located on the north east corner of N Loop 288 and Stuart Road. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition of the real property described above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project: Parcel C9 - Stuart Property Trust, Sherman County Inc., a Nevada Corporation, as Trustee and Edward F. Wolski, a married man) [ID 14-0202]

- E. ID 14-0254 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, receive information from staff and provide staff with direction pertaining to the acquisition of real property interests located in the the M.E.P. & P.R.R. Co. Survey, Abstract Number 927, Denton County, Texas, located generally in the 1300 block of North Mayhill Road, in the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property interests referenced above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceedings or potential litigation. (Mayhill Road Widening and Improvements Project: Parcel M026 - Habib Pyarali Arab) [ID 14-0251]
- F. ID 14-0257 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, receive information from staff and provide staff with direction pertaining to the acquisition of real property interests located in the the M.E.P. & P.R.R. Co. Survey, Abstract Number 927, Denton County, Texas, located generally in the 1300 block of North Mayhill Road, in the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property interests referenced above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceedings or potential litigation. (Mayhill Road Widening and Improvements Project: Parcel M029 - JNJ Prominence Square, LP) [ID 14-0253]
- G. ID 14-0258 Deliberations regarding Consultation with the City Attorney - Under Texas Government Code, Section 551.071; Deliberations regarding Economic Development Negotiations - Under Texas Government Code, Section 551.087. Receive a report and hold a discussion regarding legal and economic development issues regarding proposed amendments to the economic development incentive

agreement for Golden Triangle Mall. This discussion shall include commercial and financial information the City Council has received from Golden Triangle Mall owners which the City seeks to have locate, stay, or expand in or near the territory of the city, and with which the City Council is conducting economic development negotiations; including the offer of financial or other incentive where the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code. [ID 14-0255]

- H. ID 14-0267 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071 Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the W. Roark Survey, Abstract No. 1087, J. Severe Survey, Abstract 1164, B.B.B. & C.R.R. Co. Survey, Abstract No.196 and the J. W. Withers Survey, Abstract No. 1343, all in Denton County, Texas, generally located along a line running west to east, commencing at U.S. Highway 377 adjacent to the Fort Worth Drive Substation and continuing to the west right of way line of F. M. 1830 City of Denton, Texas. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition and condemnation of the real property described above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. (Denton Municipal Electric Fort Worth T1 Addition Expansion, Denton Municipal Electric Fort Worth Drive and FM 1830 Distribution, and Hickory Creek Detention Facility projects: Burch Family Farms Ltd.)(ID 14-0268]
- I. ID 14-0269 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071. Discuss, deliberate, receive information from staff and provide staff with direction pertaining to the acquisition of real property interests located in the M.E.P. & P.R.R. Survey, Abstract No. 927, located in the City of Denton, Denton County, Texas, and being generally in the 1000 block of South Mayhill Road. Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property interests referenced above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. (Mayhill Road Widening and Improvements Project: Parcel M100 - Estate of Eliza F. Duncan, deceased) [ID 14-0270]
- J. ID 14-0243 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code,

Section 551.071. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the acquisition of real property interests located in the in the M.E.P. & P.R.R. Co. Survey, Abstract Number 927, Denton County, Texas, located generally in the 500 block of North Mayhill Road, in the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property interests referenced above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceedings or potential litigation. (Mayhill Road Widening and Improvements project: Parcel 70 - 551 Mayhill Joint Venture) [No Action Item on Regular Agenda]

- K. ID 14-0242 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the acquisition of real property interests located in the A. Tompkins Survey, Abstract Number 1246, Denton County, Texas, located generally in the 1800 block of South Bonnie Brae Street, in the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property interests referenced above where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceedings or potential litigation. (Bonnie Brae Street Widening and Improvements project: Parcel 18 - Thomas) [No Action Item on Regular Agenda]
- L. ID 14-0262 Consultation with Attorneys - Under Texas Government Code, Section 552.071. Consult with and provide direction to City's attorneys regarding legal issues and strategies associated with Gas Well Ordinance regulation of gas well drilling and production within the City Limits and the extraterritorial jurisdiction, including: Constitutional limitations; statutory limitations upon municipal regulatory authority; statutory preemption; impacts of federal and state law and regulations; impacts of gas well drilling upon protected uses and vice-versa; moratorium on drilling and production; other concerns about municipal regulatory authority or matters relating to enforcement of the Gas Well Ordinance; and legal matters associated with a citizen's initiative regarding hydraulic fracturing where a public discussion of these legal matters would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.
- M. ID 14-0274 Consultation with Attorneys - Under Texas Government Code, Section 552.071. Consult with City's attorneys regarding litigation styled *Shaklee v. City of Denton*, Cause No. 2013-20132-158, currently pending in the 158th District Court, Denton County, Texas where public discussion of these legal matters would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

- N. ID 14-0279 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; Deliberations regarding Consultation with the City Attorney - Under Texas Government Code, Section 551.071; Deliberations regarding Economic Development Negotiations - Under Texas Government Code, Section 551.087. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the sale of real property interests located in the M. Forrest Survey, Abstract Number 417, in the City of Denton, Denton County, Texas. Receive a report and hold a discussion regarding negotiations for a potential transaction. This discussion shall include commercial and financial information the City Council may receive from the property owners which the City seeks for the public use of expansion, construction, maintenance, replacement, operation, augmentation and improvement of electric transmission and distribution lines, facilities and structures, as well as substations, (herein the "DME Expansion Project"). Also hold a discussion with the City's attorneys on the referenced topic where the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

Regular Meeting of the City of Denton City Council at 6:30 p.m. in the Council Chambers at City Hall, 215 E. McKinney Street, Denton, Texas.

**1. PLEDGE OF ALLEGIANCE**

The Council and members of the audience recited the Pledge of Allegiance to the U. S. and Texas flags.

**2. PROCLAMATIONS/PRESENTATIONS**

There were no proclamations/presentations for this meeting.

**3. CITIZEN REPORTS**

There were no citizen reports for this meeting.

**4. CONSENT AGENDA**

Mayor Watts noted that Item E would be pulled for separate consideration.

Council Member Gregory motioned, Council Member Hawkins seconded to approve the Consent Agenda and accompanying ordinances and resolutions with the exception of Item E. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-172

- A. ID 14-0195 Consider adoption of an ordinance authorizing the City Manager or his designee to accept a Counter offer from Gassaway Property Trust ("Owner"), made by its Trustee, Geesling Gassaway County, Inc., a Nevada Corporation, for the purchase by the City of an electric Utility Easement encumbering a 2.9001 acre tract of land situated in the R.B. Longbottom Survey, Abstract No. 775, City of Denton, Denton County, Texas ("Property Interest") for the public use of expansion, construction, operation, maintenance, augmentation, and improvement of electric transmission and distribution lines, facilities, structures, and substations for the purchase price of Five Hundred Eighty Eight Thousand, Four Hundred Ninety Six Dollars and Eighty Eight Cents (\$588,496.88), authorizing the expenditure of funds; and providing an effective date. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project: P26 - Geesling Gassaway County, Inc.)

Ordinance No. 2014-173

- B. ID 14-0197 Consider adoption of an ordinance authorizing the City Manager or his designee to accept a counteroffer from Edward F. Wolski for the purchase by the City of an electric utility easement encumbering a 6.8289 acre tract of land being generally situated in the Caswell Carter Survey, Abstract Number 275, and in the Daniel P. Culp Survey, Abstract No. 287, both in the City of Denton, Denton County, Texas, for the public use of expansion, construction, operation, maintenance, augmentation, and improvement of electric transmission and distribution lines, facilities, structures, and substations for the price One Million, Seven Hundred Fifty Three Thousand, Seven Hundred Twenty One Dollars and Fifty Eight Cents (\$1,753,721.58); authorizing the expenditure of funds; and providing an effective date. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project: Parcel P33 - Edward F. Wolski)

Ordinance No. 2014-174

- C. ID 14-0199 Consider adoption of an ordinance authorizing the City Manager or his designee to accept a Counteroffer from Kim Property Revocable Living Trust, a Texas Revocable Living Trust, for the purchase by the City of an Electric Utility Easement encumbering a 0.8052 acre tract of land being generally situated in the Daniel P. Culp Survey, Abstract No. 287, City of Denton, Denton County, Texas for the public use of expansion, construction, operation, maintenance, augmentation, and improvement of electric transmission and distribution lines, facilities, structures, and substations for the purchase price of One Hundred Ninety Six Thousand One Hundred Eighty Seven Dollars and Forty Four Cents (\$196,187.44); authorizing the expenditure of funds; and providing an effective date. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project: Parcel 35 - Kim Property Revocable Living Trust)

Ordinance No. 2014-175

- D. ID 14-0202 Consider adoption of an ordinance authorizing the City Manager or his designee to accept a counteroffer from Stuart Property Trust and Edward F. Wolski for the purchase by the City of an Electric Utility Easement encumbering a 1.175

acre tract of land and a Temporary construction easement encumbering a 0.562 acre tract of land both being generally situated in the S. McCracken Survey, Abstract No. 817, City of Denton, Denton County, Texas, for the public use of expansion, construction, operation, maintenance, augmentation, and improvement of electric transmission and distribution lines, facilities, structures, and substations and the purpose of access, staging of materials and equipment, construction and grading activities relating to the expansion construction, maintenance, augmentation, operation and improvement of electric transmission and distribution lines, facilities, and structures, respectively, for the purchase price of Two Hundred Twenty One Thousand Five Hundred Twenty Seven Dollars and Twenty Six Cents (\$221,527.26); authorizing the expenditure of funds therefor; and providing an effective date. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project: C9 - Stuart Property Trust, Sherman County Inc., a Nevada Corporation, as Trustee and Edward F. Wolski, a married man)

Ordinance No. 2014-176

- F. ID 14-0237 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for Dry Auger Boring Services for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (RFP 5419-awarded to Mabak Directional Drilling, Inc. in the not-to-exceed amount of \$3,616,897). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-177

- G. ID 14-0238 Consider adoption of an ordinance authorizing the City Manager to execute Change Order Number Three to the contract between the City of Denton and FCS Construction, LLC for the excavation and construction of Landfill Cells 4AB and 5; providing for the expenditure of funds therefor; and providing an effective date (RFP 5256-Change Order Number Three in the amount of \$68,420 for a total contract amount not-to-exceed \$3,078,382.64). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-178

- H. ID 14-0239 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for consulting services related to the establishment of a regional Municipal Settings Designation for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (RFQ 5513-awarded to Modern Geosciences, LLC in the not-to-exceed amount of \$185,100).

Ordinance No. 2014-179

- I. ID 14-0240 Consider adoption of an ordinance accepting competitive bids and awarding a contract for the purchase of eleven (11) light duty vehicles for various City of Denton Departments; providing for the expenditure of funds therefore; and providing an effective date (Bid 5557-awarded to the lowest responsible bidder meeting specification, James Wood Autopark in the amount of \$407,131). The Public Utilities Board recommends approval (5-0) for the utility vehicles.

Ordinance No. 2014-180

- J. ID 14-0244 Consider adoption of an ordinance of the City of Denton, Texas prohibiting parking on both sides of Oakland Street from its intersection with Hickory Street to its intersection with Oak Street, providing a repealer clause; providing a savings clause; providing for a penalty not to exceed \$500 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date. The Traffic Safety Commission recommends approval (3-1).

Ordinance No. 2014-181

- K. ID 14-0246 Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and Denton Black Chamber of Commerce; authorizing the expenditure of funds; and providing for an effective date. (\$1,200)

Ordinance No. 2014-182

- L. ID 14-0247 Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton and Texas Filmmakers Corporation for the purpose of expense for the 2014 ThinLine Festival; authorizing and ratifying the expenditure of funds; and providing for an effective date. (\$2,050)

Ordinance No. 2014-183

- M. ID 14-0248 Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and Interfaith Ministries; authorizing the expenditure of funds; and providing for an effective date. (\$1,300)

Ordinance No. 2014-184

- N. ID 14-0250 Consider adoption of an ordinance accepting competitive bids and awarding a public works contract for the construction of the Highland Street Sanitary Sewer Line and Drainage Improvements for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (Bid 5535-awarded to the lowest responsible bidder meeting specification, Quality Excavation, LTD, in the amount of \$357,390.80). The Public Utilities Board recommends approval (4-0).

Ordinance No. 2014-185

- O. ID 14-0268 Consider adoption of an Ordinance finding that a public use and necessity exists to acquire (i) fee simple to an approximate 1.074 acre tract (the "Substation Tract") located in the W. Roark Survey, Abstract No. 1087 and the J. Severe Survey, Abstract No. 1164, both in Denton County, Texas, located generally along the east line of U. S. Highway 377 adjacent to and east of the Fort Worth Drive Substation Addition, and (ii) fee simple to an approximate 0.627 acre tract (the "Pump Station Tract") located in the B.B.B. & C. R. R. Co. Survey, Abstract No. 196 and the J. W. Withers Survey, Abstract No. 1343, both in Denton County, Texas, generally located west and adjacent to the G. C. & S. F. Railroad right of way and running to the west right of way line of F. M. Highway 1830, and (iii) an approximate 0.476 acre ingress and egress easement tract located in the J. Severe Survey, Abstract No. 1164, Denton County, Texas, located generally along the east

line of U. S. Highway 377 adjacent to and south of the Fort Worth Drive Substation Addition, Denton County, Texas, and (iv) an approximate 1.802 acre electric utility and communication easement located in the W. Roark Survey, Abstract No. 1087, Denton County, Texas, located generally east of the Ft. Worth Drive Substation Addition and running to the west line of a tract of land owned by Connie M. Altemus, called 37.87 acres in deed recorded in Volume 901, Page 777, Deed Records, Denton County, Texas, (the "Altemus tract") and (v) an approximate 1.793 acre temporary construction and access easement located generally east of the Fort Worth Drive Substation Addition and running to the west line of the Altemus Tract, contiguous with and adjacent to, along the northern line, of said electric utility and communication easement located generally east of the Ft. Worth Drive Substation Addition and running to the west line of the Altemus tract; for (A) as concerns the Substation Tract, ingress and egress easement, electric utility and communication easement and the temporary construction and access easement, the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, facilities, and structures; and (B) as concerns the Pump Station Tract, the public use of a wet weather pump station and detention facility project (the "Hickory Creek Detention Facility"); authorizing the City Manager or his designee to make an offer to Burch Family Farms, Ltd. (the "Owner") to purchase the property interests for the purchase price of Thirty Six Thousand Dollars and No Cents (\$36,000.00), and other consideration, as prescribed in the Purchase Agreement, (the "Agreement") as attached to the ordinance and made a part thereof; authorizing the expenditure of funds therefor; and providing an effective date. (Denton Municipal Electric Fort Worth T1 Addition Expansion, Denton Municipal Electric Fort Worth Drive and FM 1830 Distribution, and Hickory Creek Detention Facility projects: Burch Family Farms Ltd.) [ID 14-0267]

Ordinance No. 2014-186

- P. ID 14-0270 Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Purchase Agreement, by and between the City of Denton, Texas ("City"), as buyer, and John Fred Duncan and Benny Carl Duncan, Independent Co-Executors of the Estate of Eliza F. Duncan, deceased (collectively the "Owner"), as seller, to acquire fee simple title to a 1.364 acre tract situated in the M.E.P. & P.R.R. Survey, Abstract No. 927, located in the City of Denton, Denton County, Texas, and being generally located in the 1000 block of South Mayhill Road; for the purchase price of One Hundred Eighty Thousand Dollars and No Cents (\$180,000.00), and other consideration, as prescribed in the Purchase Agreement (the "Agreement"), as attached to the ordinance and made a part thereof as Exhibit "A", (the "Property Interest") authorizing the expenditure of funds therefor; and providing an effective date. (Mayhill Road Widening and Improvements Project: Parcel M100 - Estate of Eliza F. Duncan, deceased)

Approved the minutes listed below.

- Q. ID 14-0271 Consider approval of the minutes of May 5, 2014, May 6, 2014, May 13, 2014 and May 20, 2014.

Item E was considered.

Resolution No. R2014-025

- E. ID 14-0222 Consider approval of a resolution approving and accepting a grant from the State of Texas, in an amount not to exceed \$7,000,000, for design and construction of a west side runway at Denton Enterprise Airport and authorizing the City Manager, or his designee, to execute on behalf of the City of Denton all contracts, agreements and documents associated with the implementation of the said grant; and providing for an effective date.

Quentin Hix, Director of Aviation, presented the background information on the item. This was a grant application to build a second runway at Denton Enterprise Airport.

Council Member Hawkins motioned, Mayor Pro Tem Engelbrecht seconded to approve the resolution. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

**5. ITEMS FOR INDIVIDUAL CONSIDERATION - CONSIDERATION OF THE USE OF EMINENT DOMAIN TO CONDEMN REAL PROPERTY INTERESTS**

Ordinance No. 2014-187

- A. ID 14-0251 Consider adoption of an ordinance finding that a public use and necessity exists to acquire through the exercise of the right of eminent domain (i) fee simple to a 1.398 acre tract; and (ii) slope easement, encumbering a 0.151 acre tract, for the public use of expanding and improving Mayhill Road, a municipal street and roadway; generally located in the 1300 block of North Mayhill Road, each affected tract located in the M.E.P. & P.R.R. Company Survey, Abstract No. 1469, City of Denton, Denton County, Texas, as more particularly described on "Exhibit "A", attached to the ordinance and made a part thereof, (collectively the "Property Interests") authorizing the filing and prosecution of eminent domain proceedings to acquire the Property Interests; authorizing the expenditure of funds therefore; making findings; providing a savings clause; and providing an effective date. (Mayhill Road Widening and Improvements project: Parcel M026 - Habib Pyarali Arab)

LuAnne Oldham, Real Estate Specialist, presented the details of the property and the necessity for an eminent domain process. The property was needed for the Mayhill Road widening project.

Council Member Johnson motioned, Council Member Gregory seconded:

“I move that the City of Denton, Texas authorize the use of the power of eminent domain to acquire (i) fee simple to a 1.398 acre tract; and (ii) slope easement, encumbering a 0.151 acre tract, for the public use of expanding and improving Mayhill Road, a municipal street and roadway; generally located in the 1300 block of North Mayhill Road, each affected tract located in the M.E.P. & P.R.R. Company Survey, Abstract No. 1469, City of Denton, Denton County, Texas, as more particularly described on “Exhibit “A”, to the ordinance now under consideration

and on the overhead screen being now displayed to the audience, for the public use of expanding and improving Mayhill Road, a municipal street and roadway in the City of Denton, Texas”

On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Real property description is attached as Exhibit 1 to the minutes.

Ordinance No. 2014-188

B. ID 14-0253 Consider adoption of an ordinance finding that a public use and necessity exists to acquire through the exercise of the right of eminent domain (i) fee simple to a 1.251 acre tract; and (ii) slope easement, encumbering a 0.161 acre tract, for the public use of expanding and improving Mayhill Road, a municipal street and roadway; generally located in the 1200 block of North Mayhill Road, each affected tract located in the M.E.P. & P.R.R. Company Survey, Abstract No. 1469, City of Denton, Denton County, Texas, as more particularly described on "Exhibit "A", attached to the ordinance and made a part thereof, (collectively the "Property Interests") authorizing the filing and prosecution of eminent domain proceedings to acquire the Property Interests; authorizing the expenditure of funds therefore; making findings; providing a savings clause; and providing an effective date. (Mayhill Road Widening and Improvements project: Parcel M029 -JNJ Prominence Square, LP)

LuAnne Oldham, Real Estate Specialist, presented the details of the property and the necessity for the eminent domain proceedings. The property was needed for the expansion and improvement of Mayhill Road.

Council Member Gregory motioned, Council Member Hawkins seconded:

“I move that the City of Denton, Texas authorize the use of the power of eminent domain to acquire (i) fee simple to a 1.251 acre tract; and (ii) slope easement, encumbering a 0.161 acre tract, for the public use of expanding and improving Mayhill Road, a municipal street and roadway; generally located in the 1200 block of North Mayhill Road, each affected tract located in the M.E.P. & P.R.R. Company Survey, Abstract No. 1469, City of Denton, Denton County, Texas, as more particularly described on “Exhibit “A”, to the ordinance now under consideration and on the overhead screen being now displayed to the audience, for the public use of expanding and improving Mayhill Road, a municipal street and roadway in the City of Denton, Texas”.

On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Real property description is attached to the minutes as Exhibit 2.

**6. ITEMS FOR INDIVIDUAL CONSIDERATION**

Ordinance No. 2014-189

- A. Z14-0007 Continue consideration of an ordinance of the City of Denton, Texas, providing for a zoning change from a Downtown Residential 2 (DR-2) zoning district classification and use designation to a Downtown Commercial General (DC-G) zoning district classification and use designation; on approximately 0.184 acres, located on south side of West Oak Street approximately 104 feet west of the intersection of West Oak Street and Avenue B, in the City of Denton, Denton County, Texas; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission recommends approval (6-0).

Brian Lockley, Director of Planning and Development, presented the update on the item. He noted that this request was a continuation of a rezoning that was originally presented to Council on June 3rd. He presented the location map, zoning map, proposed zoning map, future land use map, and site photos illustrating present conditions. Council had given staff direction to meet with the applicant to determine if a mutual access agreement with the adjacent property could be reached. Staff met with representatives from CVS who agreed to provide access to the site from their property from Oak Street via an easement that would be recorded by a separate instrument. CVS was currently in the platting process and once the easement agreement had been approved by the City the recording information and notes would be included on the plat. Lockley reviewed the findings that must be met for a zoning amendment. The Planning and Zoning Commission and the Development Review Committee recommended approval.

Council discussed concerns over the third entry point for the proposed development, the traffic and pedestrian flow through the property, and whether the development would continue if the rezoning was denied. Other concerns expressed dealt with the landscaping requirements and open space requirements.

Mayor Watts expressed a concern that the proposal came to the Planning and Zoning Commission under a hardship variance before the rezoning of the primary property. He did not see it in a hardship prospective. He had a question to the applicant whether the development would not be done if the rezoning did not occur.

Richard Hayes, representing CVS, stated that the proposed driveway was the same place as where the fourplex had been. The original proposal was a driveway and parking but staff required pedestrian friendly wide sidewalks and bike parking so a variance was needed for parking. This was critical to the development. A hardship variance was granted due to the size of the lots. Whether the property was rezoned or not, access was still needed to the property. The current zoning allowed for the property to be used for driveways for retail buildings. He presented information on pedestrian and traffic flow and the neighborhood meeting that was held.

Mayor Watts stated that the thrust of his question was whether the driveway was crucial to the project.

Hayes stated that CVS felt it was important to the landscaping requirement and circulation requirements.

Mayor Watts stated that he struggled with the driveway location and the rationale given. He did not have a problem with rezoning, only with the curb cut.

Hayes stated that the Planning and Zoning Commissions had approved the hardship variance which was a well-established city procedure. The issue at this meeting was for a rezoning rather than for a land use.

Council discussed the landscaping and open space requirements and the circulation possibilities. They also discussed the adjoining property and the traffic flow between the properties.

Mayor Pro Tem Engelbrecht motioned, Council Member Johnson seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", and Council Member Ryan "aye", Council Member Roden "nay", and Mayor Watts "nay". Motion carried with a 5-2 vote.

Ordinance No. 2014-190

- B. ID 14-0255 Consider adoption of an ordinance of the City of Denton, Texas approving an amendment to an Economic Development Program Grant Agreement dated August 16, 2011 between the City of Denton and GTM Development, Ltd.; and providing an effective date. (Golden Triangle Mall Incentive). The Economic Development Partnership Board recommends approval (6-0).

Aimee Bissett, Director of Economic Development, stated that this ordinance would amend an existing agreement with Golden Triangle Mall. In 2011 the Council granted a program grant agreement which included a 20-year rebate of 50% of the local sales tax generated above the base year amount of \$95,898 up to \$9.5 million in grant payments. The Mall must invest a minimum of \$9.5 million before initiating grant payments, and must ultimately invest a minimum of \$45 million (up to \$60 million) by October 1, 2014 in order to continue to receive grant payments. The Mall owners had requested a two-year extension to meet their ultimate investment threshold of \$45-\$60 million. Thus far, they had invested more than \$35 million with plans for an additional \$4 million renovation for JCPenney. They had requested an extension of their deadline to October 1, 2016. Although eligible, the Mall had not yet initiated grant payments. The Economic Development Partnership Board had reviewed this request and recommended a one-year deadline extension at this time.

The following individuals submitted Speaker Cards:

Jim Greenfield, 2201 I35E, Denton, 76205 - in favor  
Matt Ludemann, 2201 I35E, Denton, 76205 - in favor

Council Member Hawkins motioned, Council Member Gregory seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

- C. ID 14-0256 Consider appointing a nominating committee to recommend appointees to serve on the Economic Development Partnership Board.

Aimee Bissett, Director of Economic Development, stated that Council needed to appoint a nominating committee to recommend new members to the Economic Development Partnership Board. The nominating committee was made up of two council members and one Chamber of Commerce member. The Chamber recommended Marty Rivers for their representative to the committee. The committee would identify potential members for the Board and bring those nominations to the Council.

Council Member Roden noted that Council Member Johnson was already a member of the Board serving as a representative of the Chamber. He questioned if two members of Council could serve if Council Member Johnson remained on the Board.

City Attorney Burgess indicated that they had researched this issue and did not find anything to prohibit that scenario. There was no problem with Council Member Johnson continuing as a representative of the Chamber.

Council Member Gregory motioned, Council Member Hawkins seconded to appoint Council Member Ryan, Mayor Pro Tem Engelbrecht and Marty Rivers to the nominating committee. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

## **7. PUBLIC HEARINGS**

### Ordinance No. 2014-191

- A. ID 14-0209 Hold a public hearing and consider adoption of an ordinance designating and describing the boundaries of a Tax Increment Reinvestment Zone Three, City of Denton, Texas ("Convention Center TIRZ"); establishing the duration of the Zone; establishing a Tax Increment Fund; establishing a Board of Directors for the Tax Increment Reinvestment Zone; making certain findings and other matters related thereto; and providing an effective date. The Economic Development Partnership Board recommends approval (6-0).

Aimee Bissett, Director of Economic Development, stated that this ordinance would create a TIRZ for the proposed hotel and convention center project. It was one step in a feasibility period and creating this zone did not make it a requirement to move forward with the project. The TIRZ was an economic development tool to help fund economic development projects. It did not impact property taxes or other taxes as the burden was inside the zone.

David Pettit, Economic Development Consultant, presented the details of the TIRZ. The purpose was to facilitate the development of a full service hotel and convention center. The ordinance established the boundary, term, city participation rate, board makeup and preliminary project and financing plan. A taxable value analysis was conducted with the current taxable value on the property at zero as it was tax exempt. If approved, the proposal would seek contributions from

Denton County at 75% and the DISD at 75%. He reviewed the projected revenues for the project and the next steps in the process.

Council Member Roden stated that the ordinance did not have any financial assumptions included.

Pettit stated that until final participation agreements were completed with the other entities, the financials would not be known.

Council Member Hawkins stated that there would be no revenue in first five years.

Pettit stated that it took about 24 months to construct and then an eighteen month lag to get the revenue. A thirty year term was used because in the first five years there was no revenue.

Council Member Gregory stated that Council early in the negotiations gave direction to staff to work out a plan for convention center and associated Certificates of Obligation in a way that minimized the cost to taxpayers. He asked staff to explain how the Certificates of Obligation would be paid.

Jon Fortune, Assistant City Manager, stated that in the current master agreement, the City would pay for the convention center with Certificates of Obligation which created an annual debt service payment. All projected revenue from convention center and hotel, all revenue from sales tax, property tax etc. would be dedicated towards the debt service. If there was not enough revenue to fully meet the annual debt service, the developer would make annual payments to make the rest of the payment. The cumulative total of all of the payments on annual basis would be used to meet the city payment obligations.

Council Member Gregory stated that the TIRZ would redirect the money that came in from the property, etc. to cover the debt.

Fortune stated that the single purpose of the TIRZ was to retire debt service on bonds.

Mayor Watts questioned if the rent that the management company was paying was subject to ad valorem taxes.

Pettit stated that it would not be taxed.

Mayor Watts stated that the creation of the TIRZ did not mean that the project would move forward. If the other entities did not participate, it would not kill the deal.

Bissett stated that part of the feasibility period and part of the overall analysis was whether the project was feasible.

The Mayor opened the public hearing.

The following individuals spoke during the public hearing:

Larry Luce, 2200 Pembroke Place, Denton, 76205 – opposed  
Lynn Holt, 2520 Bowling Green, Denton – opposed

Elma Walker, 9805 Grandview, Denton, 76202 – opposed  
Gerard Hudspeth, 606 Wilson, Denton, 76205 opposed  
Kathleen Wazney, 9117 Perimeter Street, Denton 76207- opposed  
Mike Cochran, 610 W. Oak, Denton – opposed

Comment cards were submitted by:

Chuck Carpenter, 1112 Pennsylvania, Denton, 76205 – in support  
Dana Lodge, 414 Parkway, Denton, 76201 – in support  
Bonnie Gold, 11320 Southerland, Denton, 76209 – opposed

Additional speakers included:

Zack Glenn, spoke in opposition.  
Bob Bland, 1609 Victoria, Denton- spoke in support  
John Sigemann, spoke in support  
David Zoltner, 2501 Timber Trial, Denton – spoke in opposition

The Mayor closed the public hearing.

Council Member Johnson stated that the creation of the TIRZ did not mean that the project would go forward. Council could eliminate the TIRZ whenever it felt it was appropriate.

Fortune stated up to the point when the debt was issued.

Mayor Watts stated that he had struggled with this issue. He would vote in favor of the ordinance as he wanted to satisfy that component because it did not commit the City to moving forward. He had questions about this project but had no question about the need for the convention center. He would be voting to support because it provided an opportunity per the development agreement to continue to examine the numbers.

Mayor Pro Tem Engelbrecht agreed with the Mayor's statements and knew that the developer was very interested in TIRZ also.

Council Member Roden stated that this was the first public hearing on this topic and felt there was a need to find more ways to hear from people on this issue and in particular the economic impact of the issue.

Council Member Gregory felt more public education was necessary. Council had several meeting on this issue in work sessions but they usually were not attended as well as regular council meetings. It was clear that the public had some questions that Council had not considered that were answered. The TIRZ was the funding of the convention center and not for the hotel.

Council Member Roden motioned, Council Member Gregory seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-192

- B. SI14-0001 Hold a public hearing and consider adoption of an ordinance amending Ordinance No. 2014-137, which established a moratorium on the acceptance, processing and approval of certain applications for gas well permits for gas well drilling and production activities within the corporate limits of the City of Denton, Texas, and on applications for specific use permits, site plans, development plans of any nature or type, including applications for amendments to approved or pending gas well development plats or site plans, and on applications for Fire Code operational permits, as they relate to gas well drilling and production activities, by revising exemptions and variance procedures; making minor clarification changes; providing a cumulative clause; providing a severability clause; and providing an effective date.

Darren Groth, Gas Well Administrator, presented information on the amendment to revise moratorium exemptions and variance procedures and make minor clarification changes. These revisions would clarify which applications were subject to the moratorium and outlined a new process for requesting a variance. The Planning and Zoning Commission held a public hearing and recommended approval.

Council Member Roden asked if any applications had been submitted on a technicality.

Groth replied no.

Council Member Roden questioned since the time the moratorium was enacted had there been certain permits approved because they fit the allowed criteria.

Groth stated that there was one plat that was approved which had three permits that fit an already approved well.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

Council Member Hawkins motioned, Council Member Ryan seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-193

- C. Z13-0013 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, amending the Rayzor Ranch Overlay District, consisting of 410 acres of land located on both sides of U.S. Highway 380 (West University Drive), between Interstate Highway 35 and Bonnie Brae Street; specifically by defining and establishing permitted uses for a new RR-2A Subdistrict; enhancing and extending the applicability of existing stormwater quality standards for the district; authorizing limited clearing and grading of 99 acres prior to the approval of a final plat or construction plans, subject to certain prescribed restrictions; and providing for a

penalty in the maximum amount of \$2,000.00 for violations thereof severability and an effective date. Planning and Zoning Commission recommended denial of the first portion of this request to create a new subdistrict (6-0) and recommended approval of the second portion of this request regarding clearing and grading with conditions (6-0). A supermajority vote of the City Council will be required to approve the first portion of this request.

Abra Nusser, Senior Planner, presented the details of the proposal. She indicated that the first component of the request relative to the creation of a sub-district had been withdrawn by the applicant so Council would only be considering the clearing and grading portion of the request. The proposal was to allow the rough clearing and grading of this area in advance of site plan and final plat approval. Staff, the Planning and Zoning Commission and Development Review Committee were in support of the proposal.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

Council Member Johnson motioned, Council Member Hawkins seconded to adopt the ordinance with the removal of the portion of the ordinance dealing with the sub-district and only approving the clearing and grading portion. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

## **8. CITIZEN REPORTS**

There were no citizen reports for this portion of the agenda.

## **9. CONCLUDING ITEMS**

- A. Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the City Council or the public with specific factual information or recitation of policy, or accept a proposal to place the matter on the agenda for an upcoming meeting AND Under Section 551.0415 of the Texas Open Meetings Act, provide reports about items of community interest regarding which no action will be taken, to include: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen; a reminder about an upcoming event organized or sponsored by the governing body; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; or an announcement involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

Council Member Gregory requested an update from Dr. Banks on the upcoming mosquito season in terms of the West Nile Virus.

- B. Possible Continuation of Closed Meeting under Sections 551.071-551.086 of the Texas Open Meetings Act.

There was no continuation of the Closed Meeting.

With no further business, the meeting was adjourned at 9:21 p.m.

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CHRIS WATTS  
MAYOR  
CITY OF DENTON, TEXAS

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JENNIFER WALTERS  
CITY SECRETARY  
CITY OF DENTON, TEXAS